

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6500

BILL NUMBER: HB 1046

NOTE PREPARED: Apr 10, 2007

BILL AMENDED: Apr 10, 2007

SUBJECT: False or misleading caller identification.

FIRST AUTHOR: Rep. Dickinson

FIRST SPONSOR: Sen. Steele

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Caller ID False or Misleading Information:* This bill prohibits a person from knowingly and with intent to defraud transmitting false or misleading caller ID information through a caller ID service offered to a subscriber in Indiana. The bill exempts: (1) the blocking of caller ID information; and (2) lawful investigative activities. The bill provides that a violation of the prohibition is: (1) a Class B misdemeanor; and (2) a deceptive act actionable by the attorney general. The bill provides that a subsequent violation is a Class A misdemeanor. The bill also provides a cause of action for: (1) damages; and (2) injunctive relief; for any person aggrieved by a violation.

Confidential Records Held by Telecommunication Providers: This bill prohibits a person from knowingly obtaining confidential customer records from a telecommunications service provider through certain false or fraudulent means. The bill provides that a person shall not knowingly and with intent to defraud: (1) sell or transfer; (2) purchase, receive, or use; or (3) disclose or allow access to; a provider's confidential customer records without the customer's prior authorization. The bill also exempts: (1) lawful investigative activities; and (2) certain disclosures by a telecommunications service provider. This bill requires a provider to notify affected customers of any unauthorized acquisition or disclosure of confidential customer records. The bill provides that a violation of a prohibited act is: (1) a Class B misdemeanor; and (2) a deceptive act actionable by the attorney general. The bill also provides that a subsequent violation is a Class D felony. The bill provides a cause of action for damages or injunctive relief for any person aggrieved by a violation.

Public Opinion Survey No-Call List Exemption: The bill also exempts bona fide public opinion surveys and persons conducting public opinion surveys from the prohibition against using automatic dialing-announcing devices.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Attorney General Expenditures:* This bill will have an indeterminable impact on the expenditures of the Attorney General's (AG) Office in bringing an action for the commission of a deceptive act. The impact will ultimately depend upon the administrative actions of the AG's Office in using their statutory discretion in deciding whether to bring an action for a deceptive act. It is estimated that any increase in expenditures could be offset by IC 25-5-0.5-4(g) which allows the AG's Office to recover on behalf of the state from the person committing the deceptive act a civil penalty of a fine not exceeding \$5,000 per violation. Civil penalties are deposited in the state General Fund.

Penalty Provisions: In addition to committing a deceptive act actionable by the AG, the bill provides that any person who knowingly causes false or misleading caller ID information to be transmitted to a telephone subscriber in Indiana commits a Class B misdemeanor. The bill exempts lawful investigations and the blocking of caller ID information from these provisions. The bill also provides that any subsequent violation is a Class A misdemeanor.

The bill also provides that a person who knowingly sells, transfers, purchases, receives, uses, discloses, or allows access to a telecommunication provider's confidential customer records without the customer's prior authorization commits a Class B misdemeanor. Subsequent violations involving the disclosure, etc., of confidential customer records would result in a conviction for a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: If the provisions of this bill cause additional court cases to occur and fines to be collected, revenue to both the Common School Fund and the state General Fund would increase.

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The maximum fine is \$1,000 for a Class B misdemeanor, \$5,000 for a Class A misdemeanor, and \$10,000 for a Class D felony. Criminal fines are deposited in the Common School Fund.

Court Fees: If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1)

are deposited into the state General Fund.

Explanation of Local Expenditures: *Penalty Provisions:* A Class B misdemeanor is punishable by up to 180 days in jail. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Court Fees:* If the provisions of this bill cause additional court actions to occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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